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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,536	07/21/2003	Bernard S. Sain	046504-0111	3879

22428 7590 01/07/2005

FOLEY AND LARDNER
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

GUTMAN, HILARY L

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/622,536

Applicant(s)

SAIN, BERNARD S.

Examiner

Hilary Gutman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-16, 18 and 20-22 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6-12, 17 and 19 is/are rejected.
- 7) ☒ Claim(s) 3-5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 6-12, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Betjemann in view of Glassmeyer.

Betjemann (3,386,600) discloses a shipping platform (Figure 3) comprising: an elongated platform; and adjustable length pillars 23, 24, 25, 26 provided on either side and at both ends of the platform. The shipping platform is configured such that spaces between the adjustable pillars and the platform are open and free of structure which impedes passage of cargo between the pairs of laterally opposed adjustable length pillars onto the platform when end gates are removed.

Betjemann lacks the laterally opposed pairs of the adjustable pillars each having an upper cross-member interconnecting the upper ends thereof.

Glassmeyer (4,151,925) teaches a shipping platform comprising: a platform 12; and adjustable length pillars 46 provided at either side and at both ends of the platform, the adjustable pillars each having a laterally extending upper cross-member 48, 50, 72 interconnecting the upper ends thereof. Each laterally extending upper cross-member being

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respectively movable with the upper ends of the laterally opposed pair of adjustable length pillars when the laterally opposed pair of adjustable length pillars are adjusted in length.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided laterally extending upper cross-members movable with the pillars as taught by Glassmeyer upon the platform of Betjemann in order to provide additional strength, rigidity, synchronicity, and support to the pillars as they move.

Betjemann, as modified, with regard to claim 2, provides the platform with underside cross-members (best seen in Figures 3 and 5) which are rigidly connected with the platform and which extend parallel with the upper cross-members.

With regard to claim 6, the platform is flat and adapted to have vehicles (Figure 7) and other oversized cargo thereon.

With regard to claim 7, the adjustable length pillars each comprise a base member (23A) as seen in Figure 4 rigidly connected with the platform and a telescopic member (23B) which is slidably disposed with the base member.

With regard to claim 8, Betjemann, as modified, disclose the upper cross-members interconnecting upper ends of a pair of the telescopic members.

With regard to claim 9, the adjustable length pillars each further comprise a locking device 32 which selectively locks the telescopic member in one of a plurality of positions relative to the base member.

With regard to claim 10, each locking device 32 comprises a locking pin which is disposed through apertures which are formed in the telescopic member and the base member of the adjustable length pillars.

With regard to claim 11, a connection device 37 (Figure 5) is provided on the platform and adapted to facilitate connect of cargo thereto.

With regard to claim 12, the connection device 37 is movable and selectively positionable on the platform.

With regard to claim 17, the adjustable length pillars are arranged on the platform so that a distance between the adjustable length pillars and the length of the platform are different and such that the adjustable length pillars are located inboard of longitudinally opposed ends of the platform.

With regard to claim 19, the spaces between the pillars and between the upper ends of the pillars and the platform are constantly open and free of structure which impedes passage of cargo between the pairs of laterally opposed adjustable length pillars onto the platform when the end gates are removed.

Allowable Subject Matter

4. Claims 13-16, 18, and 20-22 are allowed.
5. Claims 3-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

8. **Any response to this action should be mailed to:**

Assistant Commissioner for Patents

Washington, D.C. 20231

or faxed to:

(703) 872-9326, (for formal communications intended for entry)

or:

(703) 746-3515, (for informal or draft communications, please clearly label

"PROPOSED" or "DRAFT").



Hilary Gutman
January 4, 2005